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SENATE

REPORT
101-500

FOR THE RELIEF OF LEROY W. SHEBAL OF NORTH POLE, ALASKA

OCTOBER 5 (legislative day, OCTOBER 2), 1990.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 620]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 620) for the relief of Leroy W. Shebal of North Pole, Alaska, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. Notwithstanding any other provision of law, including, but not limited to section 8 of the Wild and Scenic Rivers Act (16 U.S.C. 1279) or any provision of the public land laws of the United States, the Secretary shall survey and convey all right, title, and interest of the United States in the approximately five acres located at Township 8 North, Range 1 West, section 36, west half of southwest quarter, Fairbanks Meridian and described in Small Tract Application #F-021611 and which is currently under permit to Leroy W. Shebal, to Leroy W. Shebal in exchange for the sum of $650 in 1965 dollars adjusted for inflation to 1990 dollars or $3,000, whichever is less, and subject to the following conditions:

(a) existing improvements on such property may not be substantially expanded and use of the property is limited to prior or current levels;

(b) retention of a right of first refusal to reacquire such property at fair market value (as set forth in the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1905)) upon a decision by Leroy W. Shebal to sell such property on his death: *Provided,* That, such right shall be extinguished if not exercised by the Secretary by payment of such value within one year from the date on which Leroy W. Shebal notifies the Secretary in writing of his decision to sell the property or the date on which Leroy W. Shebal dies, whichever occurs first.

SEC. 2. Section 1110(b) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, 94 Stat. 2371), shall not apply to the property described in section 1 of this Act.

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S313-60.

SEC. 3. The provisions of this Act shall be effective only if Leroy W. Shebal notifies the Secretary, in writing, within one year from the date of enactment of his intention to purchase the property.

PURPOSE OF THE MEASURE

The purpose of S. 620, as ordered reported, is to direct the Secretary of the Interior to convey approximately 5 acres of land adjacent to Beaver Creek in Alaska to Leroy W. Shebal of North Pole, Alaska.

BACKGROUND AND NEED

Leroy W. Shebal operates a hunting and fishing guide operation on Beaver Creek, north of Fairbanks, Alaska. Since 1958, he has owned a cabin on a 5-acre tract of land adjacent to the river.

In 1958, Mr. Shebal filed a claim under the Small Tract Act to purchase the property. In 1960, the Bureau of Land Management (BLM) offered Mr. Shebal a 20-year lease, which he accepted. In 1965, the BLM offered to sell him the land for $650. Mr. Shebal accepted the BLM's offer to sell in 1971. the BLM failed to process the purchase offer until 1973, by which time the land in question had been withdrawn under the Alaska Native Claims Settlement Act.

In 1980, the segment of the Beaver Creek on which Mr. Shebal resides was added to the National Wild and Scenic Rivers System. Section 8 of the Wild and Scenic Rivers Act withdraws all public lands within the authorized boundaries of any component of the National Wild and Scenic Rivers System from entry, sale or other disposition under the public land laws.

Mr. Shebal is currently occupying the land pursuant to a recreational use permit issued by the BLM, which is valid until August, 1991.

LEGISLATIVE HISTORY

S. 620 was introduced by Senator Stevens on March 16, 1989. Senator Murkowski was added as a cosponsor on June 14, 1989. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 620 on September 12, 1989.

At the business meeting on September 26, 1990, the Senate Committee on Energy and Natural Resources ordered S. 620, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 26, 1990, by a unanimous vote of a quorum present, recommends that the Senate pass S. 620, if amended as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

Yeas	Nays
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	

Mr. Bingaman*
Mr. Wirth*
Mr. Conrad
Mr. Heflin*
Mr. Rockefeller
Mr. Akaka*
Mr. McClure
Mr. Hatfield*
Mr. Domenici
Mr. Wallop
Mr. Murkowski
Mr. Nickles*
Mr. Burns
Mr. Garn*
Mr. McConnell*

*Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of S. 620, the Committee adopted an amendment in the nature of a substitute.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that notwithstanding any other provision of law, including but not limited to section 8 of the Wild and Scenic Rivers Act and the public land laws of the United States, the Secretary of the Interior (the "Secretary") is directed to survey and convey all right, title and interest of the United States to approximately 5 acres of land adjacent to Beaver Creek in Alaska to Leroy W. Shebal of North Pole, Alaska, in exchange for $650 in 1965 dollars adjusted for inflation to 1990 dollars, or $3,000, whichever is less.

The section also sets forth two limitations on the conveyance. First, existing improvements on the property may not be substantially expanded and the use of the property is limited to current or prior levels. Second, the United States is to retain a right of first refusal to reacquire the property at fair market value, upon a decision by Mr. Shebal to sell the property or upon his death. The right of first refusal is effective only if the Secretary provides payment within one year after the option to purchase becomes effective.

Section 2 provides that section 1110(b) of the Alaska National Interest Lands Conservation Act shall not apply to the property conveyed pursuant to section 1. Section 1110(b) directs the Secretary to grant such rights as may be necessary to assure adequate access to private lands located within Federal lands.

Section 3 stipulates that the provisions of this Act shall be effective only if, within one year after the date of enactment of this Act, Mr. Shebal notifies the Secretary, in writing, of his intention to purchase the property.

COST AND BUDGETARY CONSIDERATIONS

In accordance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate the Committee notes that the bill S. 620 is

private in character and as such a Congressional Budget Office estimate is not required.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 620. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 620, as ordered reported.

EXECUTIVE COMMUNICATIONS

On August 7, 1989, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 620. These reports had not been received at the time the report on S. 620 was filed. When the reports became available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Land Management at the Subcommittee hearing follows:

STATEMENT OF BILLY R. TEMPLETON, ACTING ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to discuss S. 620, a bill that would direct the Secretary to sell certain property in Alaska to Leroy W. Shebal of Alaska.

Section 1(a) would direct the Secretary of the Interior to sell a certain parcel of land located in Alaska, described in section 2, in fee simple to Mr. Shebal. The sale would be required to be made notwithstanding provisions of the Wild and Scenic Rivers Act or any provisions of the public land laws, and as soon as practicable after the conditions set out in this section are met. These conditions are that the conveyance be made after reciept by the Secretary of notification from Mr. Shebal, within 1 year of enactment, of his intention to purchase the property, and receipt of $650 in consideration of the purchase.

We oppose enactment of S. 620.

The issue which this legislation is designed to resolve goes back some 29 years. At that time, Mr. Shebal applied for the land for recreation purposes and the tract was classified for that purpose under the Small Tract Act.

By decision of April 18, 1960, Mr. Shebal was offered a 2 year lease. This would allow him to develop the site as reqired by BLM regulations in effect at that time. The lease provided for the option to be purchase the land under the Small Tract Act in the future at the appraised value of

$200 or the cost of survey, whichever was higher. Mr. Shebal objected to the 5 acre tract described in the proposed lease because he claimed it encompassed an unsable portion of land, and he wanted to include an area for boat moorage and sand bar where he could land his plane. He rejected that lease.

The expanded tract that Mr. Shebal sought was very remote. A cadastral survey could not be done at that time because of the expanded length of waterfront included in the tract. At that time the BLM policy on remote lands was to lease only, not to sell. Mr. Shebal was offered a lease without a purchase opton on the land that he had originally sought to purchase. With this understanding, the area was reclassified for lease only to cover the expanded tract of land. Mr. Shebal was offered and accepted a 20 year lease to run from January 1, 1961, to January 1, 1981.

On January 11, 1965, Mr. Shebal was advised that the "lease only" policy on remote sites leased under the Small Tract Act had been changed. He was offered the opportunity to apply for purchase of the property he was leasing, and advised that the approximate price of his site was $650. We understand that for personal reasons Mr. Shebal did not, or was unable to, purchase the land at the time it was offered. He did not respond to this invitation to apply to purchase until September 21, 1971, when he wrote the BLM seeking to purchase the property but with a changed description, "if the offer to purchase is still valid". He wanted to accommodate a change in the course of Beaver Creek and in the location of his landing strip. However, in 1969 the lands had been withdrawn by Public Land Order 4582 in aid of legislation for Native Aleuts, Eskimos, and Indians of Alaska, in 1971 by the Alaska Native Claims Settlement Act, and in 1972 by Public Land Order 5250. Thus, in 1971 the Bureau could not classify the lands for disposal because they were withdrawan for consideration as an addition to the Wild and Scenic Rivers System. In 1980, Beaver Creek was included as a component of the Wild and Scenic River System and pursuant to the provisions of the Wild and Scenic Rivers are withdrawn from sale and mineral entry.

As I said earlier, we object to enactment of S. 620.

We objected to conveyances of public lands within any wild and scenic river corridor. Enactment of this legislation will create a private inholding, and would be inconsistent with the intent of the Wild and Scenic Rivers Act to retain public lands within the river corridors in United States ownership for the public benefit.

We object to any conveyance of land at less than fair market value. This would not be in the public interest and would be inconsistent with congressional and administration policy.

We object to the potential for conveyance of 80 acres to Mr. Shebal when all he has occupied has been a tract of less than 5 acres.

Finally, we object to the fact that the bill fails to provide that the purchaser bear the cost of survey of the land. This is particularly troublesome because the site is being used for commercial guiding purposes.

Currently, Mr. Shebal has a recreational use permit, effective through August 4, 1991. This permit can be extended. Our Alaska office has also discussed a life estate option with Mr. Shebal. We have no objection to recreational use of this area by Mr. Shebal and his family under a BLM permit.

This completes my prepared statement. I will be pleased to answer questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 620, as ordered reported.

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